

HOUSE No. 3348

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Torrissi

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act regulating the use of recording devices in motor vehicles.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
David M. Torrissi	14th Essex
Bruce E. Tarr	First Essex and Middlesex
Richard J. Ross	9th Norfolk
Jennifer M. Callahan	18th Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3660 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT REGULATING THE USE OF RECORDING DEVICES IN MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 90 of the General Laws, as appearing 2006 Official Edition, is hereby amended by
2 inserting after section 9D the following section:—

3 Section 9E.

4 (a) As used in this section, the following words shall have the following meanings:—

5 (1) “Recording device”, a device that is installed by the manufacturer of the vehicle and does 1 or more of
6 the following, for the purpose of retrieving data after an accident:

7 (i) records vehicle speed and direction,

8 (ii) records vehicle location data,

9 (iii) records vehicle steering performance,

10 (iv) records brake performance, including, but not limited to, whether brakes were applied before an
11 accident,

12 (v) records the driver’s seatbelt status,

13 (vi) records whether the air bag deployed,

14 (vii) has the ability to transmit information concerning an accident in which the motor vehicle has been
15 involved to a central communications system when an accident occurs.

16 (2) "Owner", any of the following:—

(i) A person having all the incidents of ownership, including the legal title of a vehicle regardless of whether the person lends, rents, or creates a security interest in the vehicle.

(ii) A person entitled to the possession of a vehicle as the purchaser under a security agreement.

(iii) The person entitled to possession of the vehicle as lessee under a written lease agreement, if the agreement at inception is for a period of more than 3 months.

(b) (1) A manufacturer of a new motor vehicle sold or leased in the commonwealth, which is equipped with one or more recording devices commonly referred to as "event data recorders", including "sensing and diagnostic modules," shall disclose the presence, capacity, and capabilities of the recording devices in the owner's manual for the vehicle.

(2) A motor vehicle dealer shall include within the purchase contract in a clear and conspicuous manner information on the possibility of the presence of a recording device.

(3) Clear and conspicuous information on the possibility of the presence of a recording device shall be affixed by a sticker to a window of each new motor vehicle offered for sale or lease in the commonwealth.

(c) (1) (i) If a motor vehicle is equipped with a recording device and is involved in an accident, the owner of the motor vehicle at the time the data is created shall own and retain exclusive ownership rights to the data.

(ii) The ownership of the data shall not pass to a lienholder or to an insurer because the lienholder or insurer succeeds in ownership to the vehicle as a result of the accident.

(2) The data shall not be used by a lienholder or an insurer for any reason without a written consent in the form of a release signed by the owner of the motor vehicle at the time of the accident that authorizes the lienholder or insurer to retrieve or use the data.

(3) A lienholder or insurer shall not make the owner's consent to the retrieval or use of the data conditioned upon the payment or settlement of an obligation or claim.

(4) An insurer or lessor of a motor vehicle shall not require an owner to provide written permission for the access or retrieval of information from a motor vehicle event data recorder as a condition of the policy or lease.

(d) Data described in paragraph (1) of subdivision (a) that is recorded on a recording device may not be downloaded or otherwise retrieved by a person other than the owner of the motor vehicle, except under one of the following circumstances:-

(1) The owner of the motor vehicle knowingly and voluntarily consents to the retrieval of the information at the time the data is accessed.

(2) In response to an order of a court having jurisdiction to issue the order.

(3) For the purpose of improving motor vehicle safety, including for medical research of the human body's reaction to motor vehicle accidents, and provided the identity of the owner or driver is not

disclosed in connection with the retrieved data. The disclosure of the vehicle identification number with the last 6 digits deleted or redacted does not constitute the disclosure of the identity of the owner or driver.

(4) The data is retrieved by a licensed new motor vehicle dealer, or by an automotive technician for the purpose of diagnosing, servicing, or repairing the motor vehicle.

(5) The data is retrieved for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle accident.

(e) A person, including a service or data processor operating on behalf of such a person, authorized to download or otherwise retrieve data from a recording device pursuant to paragraph (3) of subdivision (d), may not release that data, except:-

(1) for the purposes of motor vehicle safety, security, or traffic management; or

(2) to a data processor solely for the purposes permitted by subsection (e), and only if the identity of the owner or driver is not disclosed.

(f) (1) If a motor vehicle is equipped with a recording device that is capable of recording or transmitting information as described in subdivision (a) and that capability is part of a subscription service, the fact that the information may be recorded or transmitted shall be disclosed in the subscription service agreement.

(2) Subdivision (d) shall not apply to subscription services meeting the requirements of paragraph (1).

(g) Any violation of the provisions of subdivisions (b) and (f) shall be deemed to be an unfair and deceptive trade practice, as defined in section 2 of chapter 93A.

SECTION 2. This act, except subsection (b), shall apply to all motor vehicles containing a recording device. Subsection (b) shall apply to all motor vehicles containing a recording device manufactured on or after January 1, 2010.